

# Introduction

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## Article 1

Effective Date: 11/10/2011



Town of Bluffton Unified Development Ordinance

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## 1.1 Purpose

### 1.1.1 Title and Citation

This Ordinance shall be known as the Town of Bluffton Unified Development Ordinance, and may be referred to as the Unified Development Ordinance, the UDO, or this Ordinance, and may be cited as Chapter 23 of the Code of Ordinances for the Town of Bluffton, South Carolina.

### 1.1.2 Authority and Enactment Clause

This Unified Development Ordinance is adopted pursuant to the authority granted by Chapter 7, Planning by Local Governments, Chapter 29, South Carolina Local Government Comprehensive Planning Enabling Act of 1994, of Title 6 of the Code of Laws of South Carolina (1976), as amended, and all other applicable South Carolina state laws. In accordance with the authority conferred on the Town of Bluffton by these statutes and for promoting the purposes, intent, and design objectives expressed in this Ordinance, the Town Council of the Town of Bluffton does ordain and enact into law the following articles and sections. This Unified Development Ordinance includes the zoning ordinance of the Town of Bluffton, enacted pursuant to the authority of Title 6, Chapter 29, Article 5 of the Code of Laws of South Carolina (1976), as amended, and the land development regulations of the Town of Bluffton, enacted pursuant to the authority of Title 6, Chapter 29, Article 7 of the Code of Laws of South Carolina (1976), as amended.

### 1.1.3 Comprehensive Plan

Prior to the adoption of this Unified Development Ordinance, the Town of Bluffton adopted a Comprehensive Plan on September 4, 2007, pursuant to the authority of Title 6, Chapter 29, Article 3 of the Code of Laws of South Carolina (1976), as amended, which includes, among other things, a land use element, a community facilities element, a housing element and a priority investment element. This Unified Development Ordinance is adopted in order to assist in the implementation of the Town's Comprehensive Plan.

### 1.1.4 Purpose

This Unified Development Ordinance has been adopted for the purpose of providing guidance for land use and development and redevelopment within the Town of Bluffton, in accordance with the Town's Comprehensive Plan, for its physical, social, and economic growth and development. The zoning and land development regulations contained in this Unified Development Ordinance are enacted to protect and promote the public health, safety, convenience, order, appearance, prosperity, and general welfare, as well as the efficiency and economy of the Town. To those ends, this Unified Development Ordinance has the following specific purposes:

- A. Provide for administrative procedures, zoning districts and regulations, and land development regulations and standards.
- B. Assist in the implementation of the Comprehensive Plan for the Town of Bluffton, the Southern Beaufort County Regional Plan, and other official plans, policies, and programs.
- C. Strengthen the conservation, preservation, and protection of natural resources and watersheds as signature elements of the region, including the protection, regeneration, and preservation of sensitive natural resources and the relationship of development to natural resources as an aesthetic and recreational amenity.
- D. Promote long-term and sustainable economic and environmental vitality for the region.

- E. Allow for an integrated mixture of compatible land uses to create nodes of activity in the form of town, village, and neighborhood centers.
- F. Strengthen and promote development toward town, village, and neighborhood centers.
- G. Take advantage of compact building design to improve walkability, connectivity, and preservation of open space.
- H. Provide for a range of affordable and workforce housing opportunities and choices.
- I. Provide for a variety of transportation choices that are efficient and balanced across all modes, establishing a transportation system that reduces vehicular congestion, vehicle miles traveled, household transportation costs, and emissions.
- J. Create walkable communities that support community health and reduce automobile dependency.
- K. Foster distinctive, attractive communities with a strong sense of place.
- L. Establish standards for zoning districts, and for the kinds and classes of buildings within districts, that promote the unique character of each district and the suitability for particular uses.
- M. Make zoning and development decisions predictable, fair, and cost effective, and encourage community and stakeholder collaboration in zoning and development decisions.

### 1.1.5 Jurisdiction

This Ordinance shall govern all zoning and land development within the municipal boundary of the Town of Bluffton, South Carolina, as now or hereafter established, and any public improvements in the Town of Bluffton as now or hereafter established, together with such adjacent unincorporated areas of Beaufort County which the Town Council and Beaufort County Council may jointly agree to become governed by this Ordinance.

### 1.1.6 Administration and Enforcement

This Ordinance shall be administered and enforced according to South Carolina state law and the authority and procedures in all Articles contained herein.

### 1.1.7 Applicability to Specific Development Activities

The following development and redevelopment activities, whether publicly or privately conducted, shall be subject to the provisions and standards of this Ordinance.

- A. **Use of a Structure or Land.** The establishment or re-establishment of a use, or a change in use of a structure or land, whether temporary or permanent, which the UDO Administrator determines would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.
- B. **Construction, Demolition, Reconstruction, or Alteration.** A building operation involving the construction, demolition, reconstruction, or alteration of the size of a structure which the UDO Administrator determines would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.
- C. **Increase in Land Use Intensity.** An increase in the intensity of land use, such as an increase in the number or size of nonresidential or residential uses in a structure or on land, an increase in traffic trip generation, or an increase in the number of parking spaces or amount of impervious coverage, when the UDO Administrator determines that such increase

- would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.
- D. **Filling, Excavating, or Dredging.** The commencement of any filling or excavating operation on a parcel of land, or filling or dredging of intertidal or underwater land.
  - E. **Change in Effects or Conditions.** In connection with the use of land, the making of any material change in noise levels, vibration levels, lighting intensity, thermal conditions, odors, or emissions of waste material.
  - F. **Alteration of a Shore, Bank, or Floodplain.** The material alteration of a shore, bank, or floodplain of a seacoast, river, stream, lake, or other water body.
  - G. **Utility Construction.** The construction, expansion, or modification of any utility line or facility.
  - H. **Road Construction.** The construction, expansion, or modification of any public or private road, street, or right-of-way.
  - I. **Silviculture.** The sustained management and harvesting of trees as a commodity.
  - J. **Subdivision.** The subdivision of land within the Town and the recording of a plat with the Register of Deeds for Beaufort County.
  - K. **Other.** Any other development, construction, alteration, modification, or change in land use not otherwise excluded by this Article that the UDO Administrator determines would affect the area's natural or built environment, parking requirements, transportation patterns, public health, or economic values.

### 1.1.8 Activities That Do Not Constitute Development

The following operations or uses do not constitute development for the purpose of this Ordinance:

- A. **Transfer of Title.** A transfer of title to land not involving the division of land into parcels.
- B. **Division of Land into Five Acres or Larger Parcels.** The division of land into parcels of five acres or more where no new street is involved.
- C. **Combination or Recombination of Lots.** The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to all standards of this Ordinance; and the combination or recombination of entire lots of record where no new street or change in existing streets is involved.
- D. **Legal Exhibits and Documents.** The recording of any documents or plats expressly for the purpose of reference or attachment to a publicly recorded document when such recording does not result in subdivision of land into parcels. Such recording may include, but is not limited to, documents such as master deeds or covenants, or plats for mortgage or HUD filing purposes only.
- E. **Leases and Easements.** The creation or termination of leases, easements, or other rights, except that no easement required by this Ordinance may be terminated without the approval of the UDO Administrator.

### 1.1.9 Conflicting Provisions

Where there is a conflict between provisions of applicable South Carolina state law and provisions of this Ordinance, the provisions of applicable South Carolina state law shall control. Where there is a conflict or apparent conflict among provisions of this Ordinance, the more restrictive provision shall control; except, when there is a conflict or apparent conflict between an overlay district and the underlying base zoning district, the provisions of the overlay district shall control. Where it is possible to implement, administer, or construe a particular provision of this Ordinance in more than one way, it shall be implemented, administered, or construed in a way that eliminates or minimizes conflicts with other provisions of this Ordinance.

### 1.1.10 Other Town Requirements

Whenever this Ordinance imposes a more restrictive standard than required by any other Town ordinance or requirement, the provisions of this Ordinance shall control. Whenever any other Town ordinance or requirement imposes a more restrictive standard than required by this Ordinance, the provisions of such other Town ordinance or requirement shall control.

### 1.1.11 Relationship to Deed Restrictions and Restrictive Covenants

The Town is required by Section 6-29-1145 of the Code of Laws of South Carolina (1976), as amended, to inquire of an applicant for a permit whether the tract or parcel is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity. If the Town has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity, the Town must not issue the permit unless the Town receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

### 1.1.12 Effective Date

This Ordinance shall take effect and be in full force from the date of its adoption by the Town Council, effective November 10, 2011.

### 1.1.13 Severability

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Ordinance shall be adjudged or construed to be invalid by a court of competent jurisdiction for any reason, such judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this Ordinance, all of which shall remain in full force and effect.

### 1.1.14 Repeal of Existing Ordinances

Existing Town ordinances or parts of ordinances covering the same matters as embraced in this Ordinance, including, without limitation, the Town of Bluffton Zoning Ordinance, are hereby repealed, and all Town ordinances and parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. The adoption of this Ordinance is intended by the Town of Bluffton to be the initial adoption of a new zoning ordinance and new land development regulations, and not the amendment of an existing zoning ordinance or existing land development regulations.

### 1.1.15 Prior Development Approval

Land development plans and subdivision plats submitted to and approved by the Town of Bluffton prior to the adoption of this Ordinance shall have expiration dates governed as follows:

- A. **The Permit Extension Joint Resolution of 2010.** The running of the period of development approval and any associated vested right for any development approval, as defined in the Permit Extension Joint Resolution of 2010, that is current and valid at any point during the period beginning January 1, 2008 and ending December 31, 2012 is suspended during the period beginning January 1, 2008 and ending December 31, 2012, as provided for in said Resolution. Prior development approvals subject to such Resolution are controlled thereby.
- B. **The Vested Rights Act.** The expiration of a phased development plan or a site specific development plan, as defined in the Vested Rights Act, Title 6, Chapter 29, Article 11 of the Code of Laws of South Carolina (1976), as amended, approved by the Town prior to the adoption of this Ordinance is governed by the Vested Rights Act.
- C. **Other Approvals.** Any land development plan or subdivision plat approved by the Town prior to the adoption of this Ordinance that is not subject to one or both of the Permit Extension Joint Resolution of 2010 or the Vested Rights Act shall expire on the later of (i) a definite expiration date contained in the approval or permit itself, or (ii) two (2) years from the issuance date of the approval or permit.
- D. **The Development Agreement Act.** Subject to the terms of the South Carolina Development Agreement Act, this Ordinance applies to any Development Agreement previously approved by the Town of Bluffton or any other governmental entity.